



**TOWN OF MIDWAY  
PLANNING & ZONING BOARD MINUTES  
TUESDAY, MAY 31, 2016**

**MINUTES OF MIDWAY PLANNING & ZONING BOARD MEETING HELD ON TUESDAY,  
MAY 31, 2016 AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY,  
NORTH CAROLINA**

**CALL TO ORDER**

Chairman Charles Waddell called the meeting to order.

Planning & Zoning Board members present were: Charles Waddell, Jamie Hester, LeeAnn Thomas, Carl Tuttle, and James W. Smith. Alternate: Vacant.

Town Planner Kassie Watts, Interim Town Manager Gary Looper and Town Clerk Linda Hunt were present.

**APPROVAL OF MINUTES**

On motion by Board member LeeAnn Thomas seconded by Board member Carl Tuttle, the Board voted unanimously to approve the February 23, 2016 minutes as presented.

**ADOPT AGENDA**

Town Planner Kassie Watts advised that the following items were inadvertently left off the agenda and the agenda needs to be amended to add those items:

1. Oaths of Office – Carl Tuttle and James Wayne Smith
2. Election of Officers

On motion by Board member Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to adopt the agenda as amended.

**OATHS OF OFFICE – CARL TUTTLE AND JAMES WAYNE SMITH**

At their regular meeting on March 7, 2016, Town Council reappointed Carl Tuttle to serve a four-year term on the Midway Planning and Zoning Board/Board of Adjustment. Term to expire March, 2020.

Town Clerk Linda Hunt administered the oath of office to Carl Tuttle.

Town Council also appointed former Alternate Member James Wayne Smith to serve as a full member of the Midway Planning and Zoning Board/Board of Adjustment to fill the expired term of Jackie Edwards. Term to expire March, 2020.

Town Clerk Linda Hunt administered the oath of office to James Wayne Smith.

The Alternate Member seat remains vacant.

## **ELECTION OF OFFICERS**

Chairperson Charles Waddell opened the floor for nominations for Chairperson of the Planning Board.

Board member Jamie Hester nominated Charles Waddell for Chairperson.

There being no further nominations, the floor was closed.

On motion by LeeAnn Thomas, seconded by Board member Carl Tuttle, the Board voted unanimously to elect Charles Waddell as Chairperson of the Planning Board.

The floor was opened for nominations for Vice-Chairperson.

Board member James Wayne Smith nominated LeeAnn Thomas for Vice-Chairperson.

There being no further nominations, the floor was closed.

On motion by Board member Jamie Hester, seconded by Board member Carl Tuttle, the Board voted unanimously to elect LeeAnn Thomas as Vice-Chairperson of the Planning Board.

Town Clerk Linda A. Hunt administered the oaths of office to Charles Waddell as Chairperson and LeeAnn Thomas as Vice-Chairperson. Terms of office expire March, 2017.

## **PUBLIC COMMENT PERIOD**

There were none.

Chairperson Charles Waddell recognized Mayor Pro Tem Mike McAlpine who had an introduction he would like to make.

Mr. McAlpine introduced newly appointed Interim Town Manager Gary Looper to the Board and gave the Board an update on some initiatives the Council has discussed that they want to get underway: 1) training for the Planning Board, 2) transportation issues as identified by Kimley-Horn including the traffic flow issue at Midway School Road, and 3) the potential YMCA, just to name a few.

Board member LeeAnn Thomas asked if there are going to be any opportunities for a “meet and greet” the new Interim Town Manager. Mr. McAlpine responded that the Council has discussed holding more “Open House” events.

Board member James Smith asked if the Town’s office hours could be posted on the website.

Regarding the vacant administrative assistant position at Town Hall, Interim Town Manager Gary Looper responded that it is the intent to fill that vacancy as quickly as possible, adding the Town may advertise the position.

Board member Carl Tuttle asked for an update on getting a grocery store in Midway. Mayor Pro Tem Mike McAlpine responded that Glenwood, which owns that shopping center, has some potential leads and Mayor Byrum has also been trying to recruit grocery stores to the area.

Mr. Tuttle remarked that he had heard nothing but good comments about the new Town Hall and that the citizens are pleased.

## **PLANNING BOARD TRAINING**

Town Planner Kassie Watts gave the following PowerPoint presentation as the first Planning Board Training Workshop with more sessions to continue over the next few months.

# Town of Midway Planning Board Training Workshop

May 31, 2016

## What is Zoning?

- Land within a municipality is divided into “Zones”
- Different types of land use requirements apply to each zone
- Use of land is regulated within each zone

Note: There are 12 zones: 7 residential, 5 non-residential.

## Benefits and Purposes of Zoning

- Implement community goals described in Comprehensive Plan
- Protect property rights against negative uses
- Make land use patterns predictable
- Establish economic development areas for job growth
- Ensure cost-effective public services to citizens
- Protect against negative environmental impacts
- Set minimum aesthetic & functional standards
- Preserve what is important in your community

Note: Comprehensive Plan is 2010-2020 Land Use Plan

## Constitutional Limits on Zoning

### Constitutional References

- Freedoms (1<sup>st</sup> Amendment): speech, religion, assembly, press, petition
- Takings (5<sup>th</sup> amendment): Some practical use of property. Supreme Court ruled that zoning is not a taking (Village of Euclid vs. Ambler Realty, 1926).
- State Powers(10<sup>th</sup> Amendment): Reserves undelegated powers for the states. States then grant enabling legislation to local governments.
- Due Process (14<sup>th</sup> Amendment): fair procedures
- Equal Protection (14<sup>th</sup> Amendment): treat citizens equally



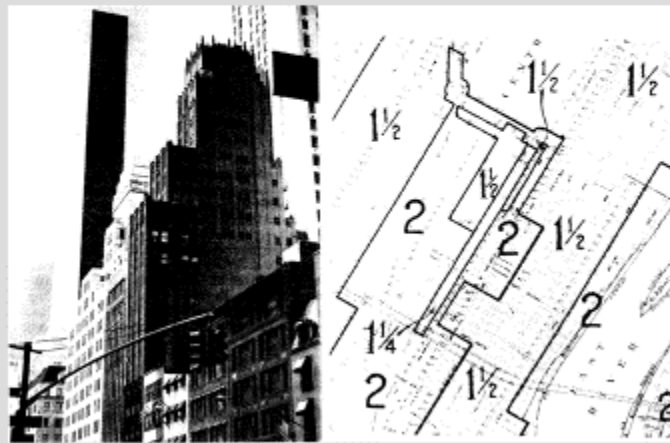
## Zoning in the United States



### 1915-Hadacheck v. Sebastian

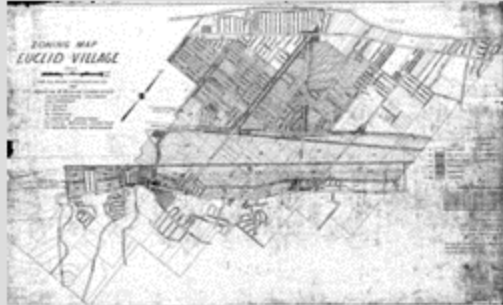
U.S. Supreme Court upheld the constitutionality of Zoning-not a violation of the 5<sup>th</sup> amendment takings clause or 14<sup>th</sup> amendment due process

## Zoning in the United States



New York City 1916 Zoning Resolution-Building Setbacks

## Zoning in the United States



### 1926-Village of Euclid v. Ambler Realty Co.

U.S. Supreme Court upheld the constitutionality of Zoning-not a violation of the 14<sup>th</sup> amendment due process

## Zoning in North Carolina



### 1931: Elizabeth City v. Aydlett

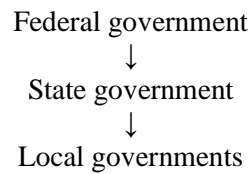
NC Supreme Court upheld zoning by quoting Euclid v. Ambler case

Prohibited Future Filling Stations



## Structure of Zoning Ordinance

- Text
  - Defines districts
  - Describes regulations for development
  - Establishes procedures
- Map
  - Applies districts to jurisdiction



Interim Manager Gary Looper commented the two most important factors to citizens are:

1. Public officials taking care of taxpayers' money, and
2. What they can/cannot do with their property.

Mr. Looper pointed out the importance of what the Planning Board does.

# Open Meetings Law

## Open Meetings Law

- Adequate public notice
- Majority of Board=Public Meeting
- Media, recording, & publication
- Accurate minutes for all meetings



Closed Session only for: confidential records, premature disclosure of awards, attorney/client privilege, real estate transactions, specific personnel issues, investigations of criminal conduct

Note: Closed Session pertains to Town Council.

Board member Jamie Hester questioned what notices are required under open meetings law. Interim Manager Looper responded that no notice is required for site plans but notice is required for zoning.

# Conflict Interest

## Disclose Conflict of Interest

- Direct financial benefit
- Indirect financial benefit
- Adjacent property owner

**When in doubt, disclose.**





# Types of Decisions

- Legislative – Town Board of Commissioners
  - Adoption, Amendment (text and map), Repeal of Ordinances, Development Agreements
- Advisory – Planning Board
  - Recommendations on Plans and Ordinance Amendments
  - Not Final Decision
  - Less Formal Rules of Procedure
- Quasi-Judicial – Board of Adjustment
  - Formal Decision
  - Includes Variances, Special Use Permits, & Appeals
  - Involves Application of Ordinance
  - Fact-Finding Hearing
- Administrative – Staff
  - Routine, Day-to-Day Decisions, Such as Permit Issuance

Board member James Smith asked what the time frame is for making a decision on a rezoning request and if it could be tabled. Town Planner Kassie Watts responded that it could be tabled, but not indefinitely.

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## Midway Planning Board's Purpose

- To make studies of the Town;
- To determine the objectives to be sought in the development of the areas under study;
- To prepare and adopt plans for achieving these objectives;
- To develop and recommend policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
- To keep the Town Council and general public informed and advised as to these matters; and
- To perform any other related duties that the Town Council may direct.

## Planning Board

In Midway, the Planning Board serves in an **advisory** role:

1. Recommendations on Land Use/Comprehensive Plans to Town Council.
2. Recommendations on Amendments to Zoning/Subdivision Ordinances to Town Council.

and an **administrative** role:

1. Approval of Site Plans

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## Planning Board

### **Amendments**

Planning Board's role is to recommend approval or denial of proposed text and map (rezoning) amendments to the Town Council, as well as the recommendation of approval or denial of subdivision plats.

### **Site Plans**

Planning Board's role is to approve or deny site plans for any commercial development as defined in the Core Commercial Overlay District.

Note: Both minor and major subdivisions require recommendation of approval or denial to the Town Council.



**PLANNING BOARD CASES**

There were none.

**OTHER BUSINESS**

There were none.

**REPORTS**

**JANUARY – MAY 2016 REPORTS**

**A. ZONING & SIGN PERMIT ACTIVITY**

Permit #	Date	PIN	Add. #	Street Name	Permit Description	Applicant
S-2016-01	1/13/2016	6830-02-78-9887	189	Hickory Tree Road	Existing multi-tenant freestanding sign panel addition	Burton Sign Works
Z-2016-01	1/14/2016	6831-04-70-5035	11141	Old US Highway 52	Interior Upfit of Suite 6-Bakery and coffee shop in existing retail space	Zeno Marshall, Jr.
Z-2016-02	02/09/2016	6841-02-55-265	250	N. Lee St.	Installation of in-ground pool	Alvin Linville
Z-2016-03	4/19/2016	6830-04-62-0134	323	Midbrook Run	Detached Garage (3 bays)	Ashley Hilchey

Z-2016-04	5/15/2016	6831-03-42-3298	120	Steelman Lane (at corner of Hickory Tree Road)	Construction of Single Family Residence	James Thomas
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## B. CODE ENFORCEMENT VIOLATIONS

Case Number	Date Issued	Address	Violation	Action	Status
V-2015-03 & 07	2-23-2015 & 4-30-15 & 9-23-15	376 Midbrook Run	Unscreened outdoor storage, junk vehicle, possible unsafe structure	Citation	Partially Abated
V-2015-04	3-2-15 & 10-1-15	145 Woodfield Drive	Junk vehicles	Citation	Partially Abated
V-2015-06	4-21-15 & 5-19-15	201 Paint Horse Trail	Unpermitted carport over property line	Notice of Violation & Civil Citation	Car port moved, need permit
V-2015-08	4-30-15	154 Livengood Drive	Unscreened outdoor storage, debris	Notice of Violation	Partially Abated
V-2015-09	4-30-15	175 Baxter Drive	Possible illegal business, junk vehicles, outdoor storage, unpermitted accessory structure	Notice of Violation	Partially Abated
V-2015-11	4-30-15	261 Baxter Drive	Possible illegal business, outdoor storage, junk vehicles	Notice of Violation	Partially Abated
V-2015-12	5-12-15 & 7-28-15	156 Bobby Willard Road	Noxious growth, debris, possible unsafe structure	Notice of Violation, Civil Citation	No Action, Attorney Contacted, Davidson Co.

					Inspections contacted
V-2015-13	5-12-15 & 7-28-15	146 Bobby Willard Road	Noxious growth, debris, possible unsafe structure	Notice of Violation, Civil Citation	No Action, Davidson Co. Inspections contacted
V-2015-14	5-12-15 & 7-28-15	210 Bobby Willard Road	Noxious growth	Notice of Violation, Civil Citation	No Action, Notice Returned
V-2015-16	5-19-15 & 7-14-15 & 9-23-15	7990 Old Lexington Road	Unscreened outdoor storage, junk vehicles, noxious growth	Citation	No Action
V-2015-19	7-14-15 & 9-23-15	155 Lee Street	Unscreened outdoor storage, high grass	Citation	No action
V-2015-22	9-29-15?	175 Lori Lane	High grass, possible unsafe structure	Notice of Violation	No action
V-2015-23	9-29-15?	450 Lori Lane	Junk vehicles	Notice of Violation	No action
V-2015-24	9-29-15?	544 Lori Lane	Possible unsafe structure	Notice of Violation	No action
V-2015-25	9-29-15?	269 Lori Lane	Possible addition without permit	Notice of Violation	No action
V-2016-01	3-16-2016	298 Eastwood Drive	Littering, Noxious Growth and Unpermitted Junkyards	Notice of Violation – Upon further investigation, violation shall be sent to nearby property owner	Pending-Ongoing

V-2016-02	3-16-2016	143 Sinkland Drive	Noxious Growth	Notice of Violation – Met with both property owners involved. Still working through drainage issue.	Pending-Ongoing  Partially Abated
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Ms. Watts advised she was going to check into those violations in 2015 where “no action” is indicated.

**ADJOURNMENT**

On motion by Board member LeeAnn Thomas, seconded by Board member Carl Tuttle, the Board voted unanimously to adjourn the meeting at 6:35 p.m.

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Charles Waddell, Chairperson

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Linda A. Hunt, Town Clerk